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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,504	11/06/2003	Hirofumi Takei	00862.023295.	7646
5514 7590 05/27/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
SHIBRU, HELEN				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
05/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/701,504

Applicant(s)

TAKEI, HIROFUMI

Examiner

HELEN SHIBRU

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-6 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s) Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendments, filed 01/21/2009, have been entered and made of record. Claims 1-19 are pending, claims 1-6 are previously elected and rejected, claims 7-19 are withdrawn as being read on the non elected species. However based on the amendment filed on 01/21/2009 claims 1-6 are restricted. See below.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1, 3, 5, drawn to an image processing apparatus comprising, "an image composition unit which composites, after said band segmentation mean unit segments first and second images, the first and second images by replacing some or all image data in common frequency band components between the first and second images, and which outputs a composited image, wherein said image composition unit outputs the composited image during a transition from the first image to the second image.", classified in class 386, subclass 55.

II. Claims 2, 4, and 6, drawn to an image processing apparatus comprising, " an image composition means signals, unit which receives first and second images, each of which have been segmented into frequency band components, and gradually composites the first and second images by replacing some or all image data in a predetermined frequency band component among the first and second images while changing the predetermined frequency band component to be processed along with an elapse of time; and an image output means unit which outputs a composite image composited by said image composition unit as a moving image upon changing

the predetermined frequency band component processed by said image unit.”, classified in class 386, subclass 102.

3. The inventions are distinct, each from the other because of the following reasons:

Groups I-II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case the image composition unit as recited in claims 1, 3, 5 does not require the feature of “gradually compositing the first and second images by replacing some or all image data in a predetermined frequency band component among the first and second images while changing the predetermined frequency band component to be processed along with an elapse of time, with outputting a composite image as a moving image upon changing the predetermined frequency band component” as recited in claims 2, 4 and 6. Similarly the image composition unit as recited in group II does not require the feature of “compositing the first and second images by replacing some or all image data in common frequency band components between the first and second images, and outputting the composited image during a transition from the first image to the second image” as recited in group I claims.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/
Examiner, Art Unit 2621

May 24, 2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621